



02 MAY 2003

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In re Application of  
BEHAN, et al.  
Application No.: 10/088,601  
PCT No.: PCT/GB00/03672  
Int. Filing Date: 25 September 2000  
Priority Date: 24 September 1999  
Attorney Docket No.: 056646-5004  
For: DISPENSING DEVICE

## DECISION ON REQUEST

UNDER 37 CFR 1.42

This is a decision on the papers filed in United States Patent and Trademark Office (USPTO) on 18 July 2002, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

**BACKGROUND**

On 25 September 2000, applicants filed the international application, which claimed a priority date of 24 September 1999. A Demand for international preliminary examination in which the United States was elected was filed on 30 January 2001 prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 March 2002.

On 21 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an Information Disclosure Statement and a copy of the International Search Report.

On 29 May 2002, applicants were mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 18 July 2002, applicants filed the current papers which included a combined declaration and power of attorney executed by inventors John BEHAN, Kishen GOHIL and Tony LEE as well as Susan Hart as Executor of the estate of the deceased inventor Gerry HART.

### DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 18 July 2002 is executed by Susan Hart as Executor of the estate of the deceased inventor, Gerry Hart. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of Gerry Hart or the Executor as required under 37 CFR 1.497(b). The information must be provided for both the deceased inventor, Gerry Hart and the Executor, Susan Hart.

### CONCLUSION

Applicants' submission under 37 CFR 1.42 is **REFUSED, without prejudice**.

As authorized, \$130.00 will be deducted from Deposit Account No.: 50-0310 as the surcharge for providing an oath or declaration later than thirty months from the priority date.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to respond will result in the abandonment of the application.

Any further correspondence with respect to this matter should be directed Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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